

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 1999-500-C - ORDER NO. 2000-581

JULY 19, 2000

IN RE: Application of CapRock Telecommunications Corp. for a Certificate of Public Convenience and Necessity to Provide Intrastate Resold Interexchange Telecommunications Services within South Carolina.)	ORDER
)	GRANTING
)	CERTIFICATE
)	

VAB

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of CapRock Telecommunications, Incorporated (“CapRock Telecommunications” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide intrastate resold interexchange telecommunications services between and among locations within the State of South Carolina as a non facilities-based interexchange telecommunications service provider. The Company’s Application was filed pursuant to S.C. Code Ann. § 58-9-280 (Supp. 1999) and the Regulations of the Public Service Commission of South Carolina.

The Commission’s Executive Director instructed CapRock Telecommunications to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of CapRock Telecommunications’ Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and

provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on June 7, 2000, at 11:00 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable Philip Bradley, Chairman, presided. CapRock Telecommunications was not represented by counsel. Florence P. Belser, Staff Counsel, represented the Commission Staff.

Andrew H. Roberts, Esquire, Vice President-Legal and Assistant Secretary, of CapRock Telecommunications, appeared and testified in support of the Application. Mr. Roberts is a 1985 graduate of Stanford University with a Bachelor of Arts in History. He also graduated in 1998 from Southern Methodist University with a Juris Doctor. As of the date of the hearing, Mr. Roberts had been employed with CapRock for fifteen months. As Vice President and Assistant Secretary, Mr. Robert handles legal and regulatory matters for CapRock.

CapRock was founded in 1991 by Jerry Thompson, the current Chief Executive Officer of the Company. On January 30, 1991, CapRock Communications Corporation was organized as a Texas corporation. When the Company was formed in 1991, it operated as a fiber company which provided long distance services. In 1998, CapRock merged with a Company in Houston which resulted in the current form of the Company. CapRock has been providing local and long distance services since 1998. Furthermore, CapRock currently has over one thousand employees.

Upon receiving a Certificate of Public Convenience and Necessity, CapRock will provide resold long distance. More specifically, CapRock will resell the services of an underlying carrier and in South Carolina CapRock's underlying carrier be Frontier. CapRock is currently providing local services in six states primarily in southwestern United States. The six states where

CapRock is providing its local services in Texas, Louisiana, Arkansas, Oklahoma, New Mexico, and Arizona. Mr. Roberts also mentioned CapRock will soon offer its local services in Memphis, Tennessee. The testimony reveals further that CapRock is expanding its resell services across the country. As of the date of the hearing, CapRock was providing its long distance services in thirty-eight states. Furthermore, regarding CapRock's long distance services, the Company plans to have a national presence.

Mr. Roberts testified further that CapRock is negotiating with MCI, Qwest, and AT&T for their services as underlying carriers as these three companies provide better rates for South Carolina consumers. CapRock will purchase long distance minutes at a discount rate from the underlying carriers and pass a portion of the discount along to consumers in South Carolina. CapRock will offer travel cards, 800 services, and inbound services. At the current time, CapRock does not plan to place any facilities within South Carolina. CapRock does however, operate as a facilities-based carrier in other states.

CapRock will rely on its underlying carrier(s) to resolve service problems. The Company operates a customer service department which employs representatives twenty-four hours a day, seven days a week. The representatives will handle problems that arise with the underlying carrier. CapRock also operates a network operations center which is staffed twenty-four hours a day, seven days a week.

Mr. Roberts also provided testimony regarding the Company's managerial ability to offer resold long distance services in South Carolina. Jere W. Thompson, Jr., President of CapRock, obtained his Master of Business Administration degree in 1982 from the University of Texas Graduate School of Business. Mr. Thompson worked in commercial real estate through 1986 and in 1991 he started CapRock Fiber Network, which designed and constructed a fiber optic

network in South Texas. Timothy W. Rogers, Executive Vice President of CapRock earned a BBA in Marketing from Southwest Texas State University. He worked as an Account Executive from 1987-1988 with U.S. Sprint Corporation. He also worked as a Senior Account Executive from 1988-1989 at Southwest Network Services. Finally, Mr. Rogers has been employed with CapRock since 1991. Timothy Martin Terrell is also employed as an Executive Vice President at CapRock. Mr. Terrell received a BBA in Marketing from Southwest Texas State University. He also had telecommunications experience prior to becoming employed with CapRock. From 1986 until 1988, Mr. Terrell was employed as a Major Account Executive at U.S. Sprint Communications. In addition, Mr. Terrell has also been employed by Metromedia Long Distance, Qwest Communications, Incorporated, and Synergy Telemanagement, Incorporated. Finally, Scott L. Roberts is also an Executive Vice President at CapRock. He earned a Bachelor of Science degree in Business Administration from the University of Nebraska. He, too, had telecommunications experience prior to joining CapRock. For example, from 1987 until 1989, he worked as a Major Account Executive at U.S. Sprint Communications and Mr. Roberts was also previously employed with Qwest Communications, Incorporated and Synergy Telemanagement, Incorporated.

The Company submitted a balance sheet with its application. The balance sheet indicates that as of September 30, 1999, CapRock's total current assets were \$327,079,000. Further, the Company's total current liabilities were \$50,215,000 as of September 30, 1999.

CapRock will market its services through agent and direct sales. The Company does not plan to utilize telemarketing to attract customers in South Carolina. CapRock does not have any offices in South Carolina. The Company's niche market in South Carolina is small and medium-

sized businesses. CapRock will also provide its services to residential customers; however, the Company does not plan to actively seek residential customers.

Mr. Roberts further testified that CapRock request a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) so that the Company can keep its books and records in Addison, Texas. In addition, Mr. Roberts stated it would be a hardship on the Company for CapRock to be required to maintain its books in South Carolina. According to Mr. Roberts, CapRock has never had authority denied in any state where it has applied for authority, nor has the Company had authority revoked in any state where it has been granted authority. Furthermore, according to the testimony, CapRock has never been fined or sanctioned by a state or federal regulatory authority. In addition, as of the hearing date, CapRock had not marketed its services in South Carolina nor received any revenues from the completion of intrastate calls prior to receiving certification.

Mr. Roberts is the regulatory contact person for the Company and Ms. Janice Klice is the financial/accounting contact person for CapRock. According to Mr. Roberts, the public interest in South Carolina would be served by CapRock's presence in the State as a reseller of long distance services because the Company will provide another source for consumers to receive lower cost long distance services and the Company will have an opportunity to lower South Carolina consumers telecommunications' bills. Finally, Mr. Roberts assured the Commission that CapRock, as a reseller of long distance services in South Carolina, will abide by the Commission's rules, regulations, and Orders.

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. CapRock Telecommunications is organized as a corporation under the laws of the State of Texas and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. CapRock Telecommunications operates as a non facilities-based reseller of interexchange services and wishes to provide its services in South Carolina.
3. CapRock Telecommunications has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to CapRock Telecommunications to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.
2. The Commission adopts a rate design for CapRock Telecommunications for its resale of interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. CapRock Telecommunications shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. CapRock Telecommunications shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 1999).

4. If it has not already done so by the date of issuance of this Order, CapRock Telecommunications shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. CapRock Telecommunications is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. CapRock Telecommunications shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If CapRock changes underlying carriers, it shall notify the Commission in writing.

8. CapRock Telecommunications shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A. Be advised that the Commission's annual report for telecommunication companies requires the filing of intrastate revenues and intrastate expenses. Attachment A consists of two pages and is entitled "Annual Information on South Carolina Operations For Interexchange Companies and AOS".

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. CapRock Telecommunications shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

10. With regard to the origination and termination of toll calls within the same LATA, CapRock Telecommunications shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been

rendered obsolete by the toll dial parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

11. CapRock requested a waiver of 26 S.C. Code Ann. Regs 103-610 (1976) so that the Company can maintain its books and records in Addison, Texas. We find that requiring the Company to maintain its books and records in South Carolina will be a hardship on the Company and therefore we grant the Company a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976); however, the Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

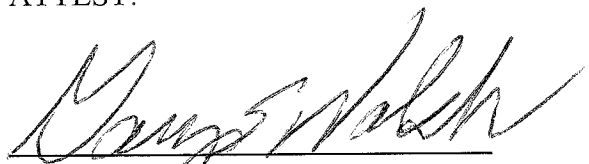
12. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director

(SEAL)

**ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'**

COMPANY NAME

FEIN

ADDRESS

PHONE NUMBER

CITY, STATE, ZIP CODE

FAX NUMBER

1. **SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31, 2000 OR FISCAL YEAR. \$** _____
2. **SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31, 2000 OR FISCAL YEAR. \$** _____
3. **RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS FOR THE 12 MONTHS
ENDING DECEMBER 31, 2000 OR FISCAL YEAR:**

Gross Plant in located or allocated to South Carolina operations \$ _____

CWIP located in or allocated to South Carolina operations \$ _____

Land located in or allocated to South Carolina operations \$ _____

Accumulated Depreciation of South Carolina Plant (\$ _____ **)**

Net Rate Base located in or allocated to South Carolina operations \$ _____

4. **PARENT'S CAPITAL STRUCTURE FOR THE 12 MONTHS ENDING
DECEMBER 31, 2000 OR FISCAL YEAR:**

LONG TERM DEBT \$ _____

EQUITY \$ _____

5. **PARENT'S AVERAGE RATE OF INTEREST ON LONG TERM DEBT** _____ **%.**

6. **CONTACT PERSON FOR ALL FINANCIAL INQUIRES AND REPORTING:**

NAME _____

ADDRESS IF DIFFERENT FROM COMPANY _____

TELEPHONE NUMBER _____

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS

FOR INTEREXCHANGE COMPANIES AND AOS'

- 7. ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3 ABOVE)(USE BACK IF NEEDED).**

NAME OF OFFICER SIGNING FORM (PRINT OR TYPE) _____

SIGNATURE _____

TITLE _____

JULY 19, 2000

ATTACHMENT B

AUTHORIZED UTILITY REPRESENTATIVE INFORMATION

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION REGULATION

103-612.2.4(b) - Each utility shall file and maintain with the Commission the name, title, address, and telephone number of the persons who should be contacted in connection with General Management Duties, Customer Relations (Complaints), Engineering Operations, Test and Repairs, and Emergencies during non-office hours.

Company Name (Including dba Name(s) or Acronyms used or to be used in South Carolina)

Business Address

City, State, Zip Code

A.

General Manager Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

B.

Customer Relations (Complaints) Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

C.

Engineering Operations Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

D.

Test and Repair Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

E.

Contact for Emergencies During Non-Office Hours (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

F.

Financial Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

G.

Customer Contact Telephone Number for Company (Toll Free)

This form was completed by

Signature

**If you have any questions, contact the Consumer Services Department (803-896-5230)
or Utilities Department at (803-896-5105).**